

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

United States of America,

Plaintiff,

v.

**Case No. 3:09-cr-121
Judge Thomas M. Rose**

Shawn M. Lauderdale,

Defendant.

**ENTRY AND ORDER DISMISSING MOTION FOR
RECONSIDERATION. (DOC. 60).**

Pending before the Court is Defendant's Motion for Reconsideration. Doc. 60. Therein, Defendant requests that the Court resentence him.

The Court originally sentenced Defendant on December 13, 2010. Doc. 48. On April 17, 2011, Defendant moved the Court to retroactively apply revised sentencing guidelines, doc. 54, which motion was denied. Doc. 56. On May 17, 2012, Defendant timely appealed the Court's ruling. Doc. 57. On July 9, 2012, Defendant filed the motion presently before the Court, requesting that the Court reconsider its order. Doc. 60. Defendant's motion is unopposed by the Government.

"The traditional rule is that a 'timely appeal divests the district court of jurisdiction to reconsider its judgment until the case is remanded by the Court of Appeals.'" *Dunham v. United States*, 486 F.3d 931, 935 (6th Cir. 2007) (quoting *Pit tock v. Otis Elevator Co.*, 8 F.3d 325, 327

(6th Cir. 1993)). Therefore, even though Defendant's motion is unopposed, the Court lacks jurisdiction to entertain it, and Defendant's motion is **DENIED**.

DONE and **ORDERED** in Dayton, Ohio, this Friday, September 7, 2012.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE